10th September 1960]

(3) MOTION UNDER RULE 21 (3) OF THE MADRAS COUNCIL RULES *re.* CHANGE IN THE ORDER OF BUSINESS.

THE HON. SRI R. VENKATARAMAN : I move :

" That under rule 21 (3) of the Madras Council Rules, the Madras Public Premises (Eviction of Unauthorized Occupants) Bill, 1960 (L.A. Bill No. 24 of 1960) be taken up before the Madras General Sales Tax (Amendment) Bill, 1960 (L.A. Bill No. 25 of 1960)."

MR. CHAIRMAN : The question is—

" That under rule 21 (3) of the Madras Council Rules, the Madras Public Premises (Eviction of Unauthorized Occupants) Bill, 1960 (L.A. Bill No. 24 of 1960) be taken up before the Madras General Sales Tax (Amendment) Bill, 1960 (L.A. Bill No. 25 of 1960)."

The motion was put and carried.

V—GOVERNMENT BILLS.

(1) THE MADRAS PUBLIC PREMISES (EVICTION OF UNAUTHORIZED OCCUPANTS) BILL, 1960 (L.A. BILL NO. 24 OF 1960).

* THE HON. SRI M. A. MANICKAVELU : Sir, I move :

" That the Madras Public Premises (Eviction of Unauthorized Occupants) Bill, a 1960 (L.A. Bill No. 24 of 1960), as passed by the Legislative Assembly, be taken into consideration."

Unauthorized occupations in lands which are the property of Government are dealt with under the Madras Land Encroachment Act, 1905. This Act provides amongst others for levy of assessment and for the levy of penalty after notice, and empowers the Collector to summarily evict the encroachments and forfeit any crop or other product raised on such land. Before summarily evicting an encroacher, a notice under section 7 has to be served on the encroacher to show cause against proceedings under those sections, This procedure was devised in 1905 and was found adequate to check unauthorized occupation of Government lands in the circumstances then prevailing.

The conditions have now changed considerably. Due to many causes like congestion of population in the Cities, Towns and other industrial and commercial places, unauthorized occupation of the Government land is on the increase. In some cases there are organized attempts to occupy Government lands suddenly and in large numbers overnight. The procedure laid down in the Land Encroachment Act is inadequate and wanting in speed to counteract such sudden and organized attempt to occupy and squat on Government lands both in the Municipalities and Panchayats and in the

a Printed as Appendix I on pages 274–278 infra.

City of Madras. At present, the occupation of Government lands comes under three categories, viz., (1) unobjectionable, (2) unobjectionable for the present but may become objectionable in the future and (3) objectionable. The existing provisions of the Act are fairly adequate for dealing with occupations coming under the categories (1) and (2). But in respect of objectionable cases of encroachment requiring immediate eviction, some measures to quicken the process of eviction are necessary. Such unauthorized occupations create slums and are a source of danger to public health and sanitation. Immediate eviction of such occupations is necessary not only in the interest of public health but also to prevent the growth of further slums. All of us may be aware of the peculiar phenomenon that is developing amongst the encroachers of late, viz., to construct huts and create slums overnight on Government lands which are required for public and plan purposes. It will be very difficult to tackle the slum problem, if the present tendency is not curbed at the initial stage itself. The provisions in the Madras Land Encroachment Act, 1905, which were enacted more than five decades ago, are quite inadequate, under the changed circumstances. Some measure is, therefore, essential to arrest the increasing growth of unauthorized occupations which are highly objectionable. The Bill seeks to deal with only encroachments which are highly objectionable, and whose immediate eviction is more important in the interest of public health and sanitation. The Bill has been prepared with the main object to provide for summary eviction and removal of encroachment on Government lands by construction of huts, bunks, etc., which spring up unauthorizedly and very quickly, and which are detrimental to public health and sanitation.

The Bill is a simple one and I request the House, Sir, to accept the motion.

MR. CHAIRMAN : Motion moved :

" That the Madras Public Premises (Eviction of Unauthorized Occupants) Bill. 1960 (L.A. Bill No. 24 of 1960) as passed by the Legislative Assembly, be taken into consideration."

SRI MOHAMED RAZA KHAN : Mr. Chairman, one could appreciate the object behind this Bill. But I am sorry to say that the purposes for which this Bill has been brought in cannot be carried out. This Bill is intended for prevention of slums. I am rather inclined to say that this Bill will only help the preservation of slums. I quite agree that slums are being created particularly in the City of Madras. I confine my remarks to the City of Madras and not to other towns. The other day, the Hon. Leader of the Opposition referred to the slums created around the Ophthalmic Hospital. When I happened to pass that day a few days back, I stopped my taxi and had a look at the place. It is very horrible. Therefore, from the point of view of removing such slums this Bill is welcome. But if we take the practical side of it, it does not seem to be a welcome measure. As far as conditions in the City of Madras are concerned, we must be able to see one thing. Persons

engaged in various avocations—domestic servants, mill workers and casual labourers alike—have developed a tendency to stay put. They want to remain where they are. Even if better places are offered to them, they do not like to go there because they are anxious to live near their work-spots. We know that the Government have put up some tenements near San Thome and the rent is not very high or exorbitant. Many middle-class people would simply jump at the offer, if they are permitted to occupy these tenements. Still the slum-dwellers do not like to go there because it is far away from the places of their work. So, a mere Bill of this type will not achieve the purpose. The other day our elder statesman, Mr. C. Rajagopalachari, wrote an article in "The Mail" about slums. We still remember how much interest he took in this work and we also remember how the present Revenue Minister, then in his Cabinet, piloted a Bill providing for the purchase of slum lands. Since then, not much has been done. The Hon. Minister for Revenue could give us an account of how many slum lands have been purchased, how much money has been spent and how much slum-dwellers have been rehabilitated, after the passing of that Act. It is very easy, Sir, to have a Bill like this passed. But still it will remain a dead letter. Sir, the position to-day is, unauthorized occupation is resorted to by 200 to 300 families. It is not the case of an individual in which case we can easily evict him. If we evict these families, they will ask: 'Where are we to go?' These men with their wives and children and a dozen and more relatives including their sisters-in-laws and mothers-in-law cannot be evicted so easily. It will be cruel if we use force. So, this Bill, when passed, will lead to a good deal of agitation. Therefore, unless and until you have a policy of rehabilitation for these people who are in unauthorized occupation of land, there cannot be any progress. We 5-10 p.m. want this point to be made clear. When I am on the subject, with your permission, Sir, I want to digress a little and say a few words about the Madras City Improvement Trust. I quite admire their grand schemes and big plans. But they are all intended for the middle-class people, either lower middle-class people or the top middle-class people. Nothing has been done so far as the slum-dwellers are concerned. I find some area has been ear-marked for this purpose in Kodambakkam or in Vyasarpadi or beyond those places. But the difficulty arises when people who have to work in the Harbour, or in Royapettah or Triplicane, are asked to go to those places. They find it difficult to walk such long distances to reach the places where they work and earn their livelihood. I am happy the Hon. the Minister for Industries is here now. I can bring this to his notice that so far no improvement has been effected in their condition by the City Improvement Trust. My submission is, instead of taking up plots in Kodambakkam or Vyasarpadi or ultimately in Chingleput or Tambaram, it would be good if the City Improvement Trust could take up the existing slums which are mostly Harijan colonies and improve them and do something for the people in the existing place itself; it would go a long way in satisfying them. I know the Hon. the Leader of the House is smiling.

He will say that the main difficulty is that they are not prepared to pay even the basic rent. True, it is a point that has to be considered because the Government constituted as they are cannot be put to so much of expenses on the improvement of these existing slums. But I rather feel it would be much better, and surely all the hon. Members and especially the Members on the Opposition side, will not grudge the Government of Madras losing Rs. 10 or Rs. 15 per house, as it is very necessary that the people should be provided with houses in the existing places themselves.

THE HON. SRI R. VENKATARAMAN : The economic rent will be Rs. 25. Government are prepared to give it for Rs. 10. I do not know what further concession my hon. Friend wants the Government to make.

SRI MOHAMED RAZA KHAN : While I congratulate the Government on this concession, even if they have to reduce it to Rs. 5 it is much better to lose something and allow the dwellers to stay there itself. The difficulty is they do not want to leave the area where they have been living. They are now living in small huts and paying rent to the Government or private parties. If small houses at a cheap cost are built in those places and given to them on a rental of Rs. 4 or Rs. 5 a month it would be greatly welcomed by them. But this cannot happen as long as the City Improvement Trust is not prepared to change its attitude. It should not think in terms of 50 or 60 acres for development purposes. It will solve the problem of only the middle-class people or the richer class of people. It would not solve the problem of the slum-dwellers. Unless and until the slums are developed as I have suggested, I am sure all the orders passed by the Government will only remain paper orders. The Government may pass Bills, but the provisions of the Bills cannot be enforced.

MR. CHAIRMAN : The hon. Member's time is up.

SRI MOHAMED RAZA KHAN : I will make one or two points in about 50 seconds (laughter) and finish, Sir.

Sir, in clause 2 competent authority is defined. (AN HON. MEMBER : Are you opposing or supporting the measure?) It is not a question of opposing or supporting the measure. I am pointing out only the difficulties. It is not stated who that competent authority is. It would be better to state who the competent authority is, either the Revenue Officer or the Police officer, whoever he is. The person concerned will have to quit if the authorised officer passes an order that the occupation is unauthorized. But the Government have shown some mercy to them and said that they will have to quit within ten days if it is a building, or three days if it is land that is unauthorizedly occupied. There is also a right of appeal and the time allowed is one month. This requires clarification since I am only an ordinary man and not a lawyer. I am unable to understand the implication of this provision. The time

allowed for appeal is one month. But what happens if the competent authority passes the order and executes it within the time stipulated, that is, ten or three days as the case may be? What becomes of the right of appeal then? Generally when an order is passed, time is given for appeal against that order and till that time elapses no action is taken. But here the competent authority may pass orders and execute them and still there is a right of appeal.

THE HON. SRI R. VENKATARAMAN : It is only in cases where there is dispute about ownership and all that. Certainly Government must not take action in those cases. But where the land belongs to the Government and the unauthorized occupation takes place now or within six months of the passing of the Act, what is the point of appeal except an appeal to mercy? That is why it is said that it is not necessary.

SRI MOHAMED RAZA KHAN : If really the Government are satisfied that it is their land and the order is passed, I take it from the Hon. the Leader of the House that there is no right of appeal. However it would be better for the Government to clarify the point, and say in what cases there will be the right of appeal and in what particular cases there will be no right of appeal.

MR. CHAIRMAN : The hon. Member has taken much time. We have to get through another Bill.

SRI MOHAMED RAZA KHAN : After all it will not take more than 15 minutes.

MR. CHAIRMAN : The hon. Member does not know how many more have given their names to me for participating in this debate.

SRI MOHAMED RAZA KHAN : In that case I resume my seat, Sir.

* VIDWAN T. MUTHUKANNAPPAN: தலைவரவர்களே, இந்த மசோதாவை நான் மனப்பூர்வமாக ஆதரிக்கிறேன். இந்தச் சமயத்தில் ஒரு பழமொழி ஞாபகத்துக்கு வருகிறது. "திறந்த வீட்டில் நாய் நுழைவதுபோல்" என்று சொல்வார்களே அதுதான். இனி அது கூட மாறிப்போய், "காலி மனையில் காலிகள் நுழைவது" என்று சொல்வது பொருத்தமாய் இருக்கும் என்று தோன்றுகிறது. எந்தச் சமயத்திலும் எந்த விதத்திலும் எந்தக் காலியிடத்தையும் ஆக்கிரமித்துக் கொண்டு குடிசையைக் கட்டிக்கொண்டு குடியிருக்கத்தான் எங்களை ஆண்டவன் படைத்திருக்கிறான் என்று ஒரு சிலர் திட்ட வட்டமாக நினைத்துக்கொண்டு இருக்கிறார்கள். அந்த மனப்பான்மை மாறவேண்டும். நமது வீட்டுக் கொல்லையில் ஒரு அங்குலம் இடம் இருந்தாலும், பொழுது விடிந்து பார்த்தால் அதில் ஒரு டஜன் குடிசைகள் கட்டப்பட்டு இருக்கும். அத்தகைய மனோபாவம் மக்களிடம் வளர்ந்து கொண்டு வருகிறது. இந்தச் சட்டம் அமுலுக்கு வந்ததிலிருந்து ஆறுமாதங்களுக்கு முன்பு குடியேறியவர்களைப் பாதிக்காது.

[Vidwan T. Muthukannappan] [10th September 1960

ஆறுமாதங்களுக்குள்ளாகவும் சட்டம் அமுலுக்கு வந்தபிறகும் ஆக்கிரமிக்கிறவர்களை மட்டும் தான் பாதிக்கும் என்று இருக்கிறது. இதைப் பார்த்தால், அரசாங்கம் அவர்களிடம் போதுமான அளவு கருணை காட்டுகிறது என்பது புலனாகிறது.

இப்படிக் கண்ட இடத்தில் குடிசைகள் கட்டி அவற்றை வாடகைக்குவிட்டுப் பிழைப்பதையே ஒரு பிழைப்பாகக் கொண்டிருக்கிறார்கள் சில பேர்வழிகள். இதை ஒருவித வியாபாரமாக நடத்துகிறார்கள். இதை நீங்கள் ஆழ்ந்து கவனிப்பீர்களேயானால் தெரியும். ஒருவர் 50 ரூபாய் போட்டு ராயபுரத்தில் ஒரு குடிசை கட்டுவார். அதே நபர் அந்தக் குடிசையை 10 ரூபாய் வாடகைக்கு விட்டுவிட்டு வியாசர்பாடியில் மற்றொரு குடிசை கட்டி வாடகைக்கு விட்டு மறுபடியும் சைதாப்பேட்டையிலும் இன்னொரு இடத்திலும் குடிசைகள் கட்டி வாடகைக்கு விடுவார். பிறகு அடையாற்றில் பக்கிங்ஹாம் கால்வாய் கரையில் ஒரு குடிசையைக் கட்டுவார். இப்படியாக ரூ. 250 செலவு செய்தால் ஒருவர் சுலபமாக மாதம் ஒன்றுக்கு ரூ. 50 வாடகை வாங்கும் நிலைமை இருக்கிறது. இப்படிப் புதுமுறை வியாபாரமே நடக்கிறது.

5–20 p.m. இந்தமாதிரி கண்டபடி குடிசைகளைக் கட்டிக்கொண்டு விடுவதில் ஒரு கெடுதி இருக்கிறது பொதுமக்களுக்கு. எப்படி என்றால், அதனால் மக்களின் சுகாதாரம், சுத்தம் பாதிக்கப்படுகிறது. அங்கே வாழ்கிற மக்கள் எல்லாம் நோயின் கொடுமைக்கு ஆளாக வேண்டியிருக்கிறது. அந்த slum-கள் இருப்பதால், அவை நோய்க்கெல்லாம் காரணமாக இருக்கிறது என்று தான் இந்தச் சட்டம் கொண்டு வந்திருக்கிறார்கள். இந்தச் சட்டத்தில் 6 மாதத்துக்குள்ளாக வந்தவர்கள் என்பதற்குப் பதில் 6 வருஷத்துக்கு முன்புவரை இருந்தவர்கள் என்று போட்டால் கூடச் சரியாய் இருக்கும் என்று சில சமயம் நினைக்கத் தோன்றுகிறது-. கனம் ராஸா கான் சொன்னார்கள். இது ' Prevention of slums ' அல்ல, Preservation of slums என்றார். அது ஒருவிதத்தில் சரி என்று தான் தோன்றுகிறது.

முக்கியமான ஒன்றைக் கவனிக்க வேண்டும். இதற்குக் காரணம் என்ன என்று பார்க்க வேண்டும். கிராமத்திலுள்ள மக்கள் எல்லாம் நகரங்களுக்கும், நகராட்சிக் கழகங்களுக்கும் (municipalities) வந்து குடியிருக்கிறார்கள். இதை முதலில் சரிப்படுத்த வேண்டும். உடலில் புண் இருந்தால் அதை நன்றாக முழுதும் ஆற்றி விடுவதுதான் நலம். இரணத்தை உள்ளே வைத்து விட்டுத்தைத்து விடுவதில் பலனில்லை. அது பிறகு உடல் முழுவதையும் பாதித்துவிடும். அது போல மக்கள் பல விடங்களிலிருந்தும் வந்து நகரங்களில் குடிசைகளைக் கண்டபடி கட்டிக் கொள்வதன் காரணம் என்ன என்பதைக் கண்டறிந்து அதனைக் களைய முயல வேண்டும். இனிமேல் தொழிற்சாலைகள் நகரங்களில் ஏற்படவிடக் கூடாது. நகராட்சிகளிலும் ஏற்படவிடக் கூடாது. கிராமங்களிலும் நகரங்களிலிருந்து தொலை

10th September 1960] [Vidwan T. Muthukannappan]

தூரங்களிலுள்ள இடங்களிலும் தான் ஏற்படுத்த வேண்டும். தொழிற்சாலைகளைத் தனியார் ஏற்படுத்த வேண்டுமென்றால் நகரங்களுக்கு வெளியேதான் ஏற்படுத்த வேண்டும். தொழிலாளிகளுக்கு வீட்டு வசதிகள் செய்ய வேண்டும் என்ற நிபந்தனை ஏற்படுத்த வேண்டும். அப்படி இருந்தால் தான் தொழிற்சாலை ஏற்படுத்த அனுமதி தரவேண்டும். அப்படிப்பட்ட சட்டம் இருந்தால் தான் மக்கள் நகரங்களில் வந்து குடியேறி நரகமாக்குவதை தடுக்க முடியும். இதை அரசாங்கம் செய்ய வேண்டுமென்று கேட்டுக்கொண்டு இந்தச் சட்டத்தை ஆமோதித்து முடித்துக்கொள்ளுகிறேன்.

* THE HON. SRI M. A. MANICKAVELU : Sir, I concede that by passing this Bill, we cannot achieve all that we contemplate by way of improving the slums and making them very sanitary. What is contemplated is that the squatters or encroachers within six months before the date of the passing of the Act and encroachers after the passing of the Act will be evicted. We are not dealing with the old encroachers. There is already an Act to deal with encroachment, but its scope is limited. That is why, we have brought in this Bill. Under the old Act, we can contemplate taking action against the other encroachers. This is being done through another scheme of finding developed plots for the encroachers. For instance, in North Madras there is a proposal to acquire about 2,000 acres and provide developed plots. So also in South-East Madras, another area of about 2,000 acres will be taken up. Whether it will be possible to build cheap tenements, is only at the consideration stage. Now the Home Minister, who has returned from Russia, has said that though so much was said about advancement in Russia there were still houses with mud wall. If it is put up in a neat and modern manner, I think we can make it satisfactory. That is a long term phased programme. Now, immediately there are so many projects to be taken up. For instance, the development of the engineering college in Adyar. There have been a number of squatters there. We find it very difficult to evict them. If we are to adopt the provisions of the old Act, in the first place we will have to give notice to the persons concerned. First we must find the men out. It is very difficult to find them. There is no doubt scope for what we call substitute service. We can resort to this only after exhausting all the provisions in regard to the finding out of the men. It takes a long time. This Bill will apply not to the people who are really affected but only to those about whom my friends spoke. They want to exploit. There are organizations, which are backed by people with some resources, and they ask people to go and squat on Government land and try to make money out of it. This is an obstacle to our schemes of development. That is why, it is necessary that we have to adopt provisions to expedite the eviction of encroachers.

As regards appeal, Sir, no doubt an appeal is provided for. But unless there is a *prima facie* case, they cannot appeal. In real and

genuine cases, there is scope for appeal. Provision for stay is also there for all real cases where there is hardship. Then we have the right of suit also. All these precautions are taken. After all, what is this for? It is for taking action against people who go and squat on another man's land. No doubt it may be Government land. But still they have no right. Somehow it has been allowed, and people are doing it, especially when we want land for our own purposes, which ultimately will make for the progress of the country and help the squatter also in an indirect way to earn more. So considered from all these points of view, I think hon. Members will agree that to a small measure like this which applies to cases cf six months' encroachment and less there cannot be any real objection. I hope hon. Members, after hearing my explanation, will accept my motion.

SRI K. T. KOSALRAM : Will this be applicable to the whole State of Madras or the City of Madras only? There are thousands of people who will be affected.

THE HON. SRI M. A. MANICKAVELU : I may inform the hon. Member, as I informed the other House, that in the first instance, it is proposed to apply this Act to the City of Madras and important municipalities having new industrial development. It would not affect the mufassal area very much.

MR. CHAIRMAN : The question is—

"That the Madras Public Premises (Eviction of Unauthorized Occupants) Bill, 1960 (L.A. Bill No. 24 of 1960), as passed by the Legislative Assembly, be taken into consideration."

The motion was put and carried and the Bill was taken into consideration.

Clause 2.

MR. CHAIRMAN : The motion is—

"That clause 2 do stand part of the Bill."

SRI MOHAMED RAZA KHAN : Sir, in clause 2 (*g*), it is stated—

"'unauthorized occupation' in relation to any public premises, means the occupation, within a period of six months immediately before the date of the commencement of this Act . . .". As far as the person is concerned, it is very easy to find him out. But how will the department exactly find out that this unauthorized occupation is within a period of six months immediately before the commencement of this Act? What is the machinery they have got to get this information and how will they decide whether the information is correct or not? Those who are in unauthorized occupation will say that they are there for the last so many years. The Government cannot get evidence. I think this is a bit of loose phraseology. I hope the Hon. Minister will clarify this point.

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THE HON. SRI R. VENKATARAMAN : Sir, actually there is a census of these hut dwellers, and revenue records have this information. Recently I had a case in which some people had occupied the land allocated for our engineering college extension. Then all the people said that they had been living there for ten years and fifteen years, but actually when we referred to the Collector's records we discovered that only 126 people had lived there for more than six months. Therefore, it is not very difficult to find out who lived there for more than six months.

Clause 2 was put and carried.

Clauses 3 to 10 were put and carried.

Clause 1 was put and carried.

The Preamble was put and carried.

THE HON. SRI M. A. MANICKAVELU : Sir, I move—

"That the Madras Public Premises (Eviction of Unauthorized Occupants) Bill, 1960 (L.A. Bill No. 24 of 1960), as passed by the Legislative Assembly, be passed."

MR. CHAIRMAN : The question is—

"That the Madras Public Premises (Eviction of Unauthorized Occupants) Bill, 1960 (L.A. Bill No. 24 of 1960), as passed by the Legislative Assembly, be passed."

The motion was put and carried and the Bill was passed.

(2) THE MADRAS GENERAL SALES TAX (AMENDMENT) BILL, 1960 (L.A. BILL NO. 25 OF 1960).

* THE HON. SRI R. VENKATARAMAN : Sir, I move—

"That the Madras General Sales Tax (Amendment) Bill, 1960 (L.A. Bill No. 25 of 1960), as passed by the Legislative Assembly, be taken into consideration."

Sir, the working of the Madras General Sales Tax Act, 1959, during the past one year and more has given rise to several problems connected with the administration of the Act necessitating amendments to certain provisions in the Act. The present Bill embodies the amendments found necessary. Now I shall proceed to explain the scope of the several clauses of the Bill.

The High Court of Madras has held that sales tax cannot be levied on works contracts relating to movable properties with no element of sale in them. The Government have, therefore, decided to omit the provisions in the Act relating to works contracts on movable property I am sorry, my esteemed Friend, Mr. Balasubramanya Ayyar is not here. When the Bill was under discussion in the Select Committee I informed the Committee that the matter

* Printed as Appendix II on pages 278–283 infra.